

CHAPTER 5 MISCELLANEOUS PROVISIONS

Rule 2.5.1 (Renumbered to Rule 1.4.4)

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009; Renum. 1/1/2010)

Rule 2.5.1

Public Inspection of Files

A. File Review in the Civil Business Office. Civil files may be reviewed in the civil business office of each division in accordance with the California Rules of Court and the following:

1. Any person requesting to view a file may be required to submit a valid California driver's license or other photo identification card;
2. Cases must be requested by case number;
3. If requested in nonsequential order, a maximum of 10 cases per day will be pulled by the clerk;
4. If requested in sequential order, a maximum of 50 cases per day will be pulled by the clerk;
5. Unlawful detainer case files may be requested by case number no sooner than 60 days following the date the complaint is filed pursuant to Code of Civil Procedure section 1161.2; and
6. No random searches will be accommodated.

B. Access to the Civil Business Office for File Review. Any person who desires access to the secured area of the civil business office to review case files must comply with the following:

1. Submit an Application for Access into the Clerk's Office to Research Court Records;
2. Submit a valid California driver's license or photo identification card and, if applicable, a copy of a valid business license;
3. Pass a background check as designated by the court. All expenses related to the background check are the responsibility of the applicant, must be paid in advance and are non-refundable.

Access will be denied if the applicant has any outstanding warrants, is a party to a pending civil or small claims action, has an open misdemeanor or felony case, is currently on probation for a misdemeanor or felony conviction, or upon order of the court.

Applicants who are denied access will be permitted to inspect cases in the same manner as set forth under subdivision "A" of this rule.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2004; Renum. 1/1/2006; Rev. & Renum. 1/1/2010)

Rule 2.5.2

Fax Filings

A. Agency Fax Filings. The court will accept for filing all documents submitted by fax filing agencies, except those specified in the California Rules of Court.

B. Direct Fax Filings - Limited Civil Cases. Any document not required to be accompanied by a fee may be filed directly by fax. Direct fax filing numbers may be obtained by contacting the appropriate business office.

The business office will not provide conformed copies unless a request is submitted to the court with a self-addressed, stamped envelope, and \$.50 per page of the faxed document.

C. Confirmation Fee. Confirmation of the receipt of documents for filing, beyond that given by the standard confirmation option of the facsimile machines, shall be given upon payment of the fee adopted by the Court (\$3.50).

D. Facsimile Filing Usage Fee. The Court shall charge a facsimile usage fee of \$.50 per page, including the cover sheet and all tab pages.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2010)

Rule 2.5.3

Procedure Upon Death of Plaintiff

Within 10 calendar days of receiving notice of the death of a plaintiff, counsel for the plaintiff must file with the court and serve upon all other parties in the action, a Notice of Death of the Plaintiff.

Upon receipt of a Notice of Death of the Plaintiff, the court will suspend future consideration of the case for 90 calendar days. The case will be placed on a dismissal calendar to be heard 90 days after the notice is filed unless:

- A. The original case is consolidated with a new wrongful death action;,
 - B. Good cause is shown upon written noticed motion to extend the time for dismissal; or
 - C. Plaintiff's counsel moves to have the original action restored to active status.
- (Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Renum. 1/1/2010)

Rule 2.5.4

Receivers

The court may appoint a receiver pursuant to statute or in conformance with equity practice. Appointment of a receiver may be made either by order after a show cause hearing, by order after a noticed motion for appointment of a receiver, or by ex parte order for appointment of a receiver.

Ex parte appointment of a receiver is a drastic remedy used only with extreme caution in cases of great emergency when it is shown that the party seeking appointment of a receiver will suffer irreparable harm before a noticed hearing can be held and that no less drastic remedy, such as a temporary restraining order, will prevent the threatened harm. Appointment of a receiver ex parte is contingent upon the filing of an applicant's bond (Code Civ. Proc., § 566) and a receiver's bond (Code Civ. Proc., § 567). The receiver's bond will be fixed in an amount sufficient to cover the value of transferable personal property and cash which the receiver may possess at any time during the expected period of the receivership. Confirmation of the ex parte appointment of a receiver must be done in conformance with the provisions of the California Rules of Court.

The proposed order appointing a receiver must set forth the powers of the receiver and shall designate as precisely as possible what real and personal property will be subject to the receivership estate. The powers of the receiver are limited to those designated by statute and set out in the appointing order. If there is any doubt as to the receiver's authority to take certain action, he or she should petition the court for instructions. The proposed order will also specify the rate of compensation of the receiver.

Employment of counsel by the receiver requires the approval of the court. In this regard, the application must comply with the provisions of the California Rules of Court, rule 3.1180. In addition, the application and the proposed order must set forth the attorney's hourly rate and a good faith estimate of the number of hours the attorney will expend on behalf of the receivership estate.

If the receiver intends to employ a property management company, the proposed order must specify its rate of compensation. If the proposed property management company is affiliated with the receiver, full disclosure of the affiliation must be made to the parties and the court.

Any money collected by the receiver and not expended pursuant to the receiver's duties must be held in the receivership estate until court approval of the receiver's final report and discharge of the receiver, except as otherwise ordered by the court.

The receiver is an agent of the court, not of any party to the litigation. The receiver is neutral, acts for the benefit of all who may have an interest in the receivership property, and holds assets for the court, not the plaintiff.

Accountings filed in receivership proceedings must set forth the beginning and ending dates of the accounting period and contain a summary of income, expenses, and capital outlays on a month-by-month basis. Receiver's fees and administrative expenses, including fees and costs of property managers, accountants and/or attorneys previously authorized by the court must be included in the summary, but separately stated. The summary must be supported by appropriate itemized schedules and evidentiary foundation.

This rule is not an exhaustive treatment of receivership law and procedure. For applicable law, also see Code of Civil Procedure sections 564-570 and the California Rules of Court, rules 3.1175-3.1184. (Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. & Renum. 1/1/2010)

Rule 2.5.5

Confidentiality Agreements, Protective Orders, Sealed Documents

It is the policy of the court that confidentiality agreements and protective orders are disfavored and should be recognized and approved by the court only when there is a genuine trade secret or privilege to be protected.

- A. Requests to approve a confidentiality agreement that involves documents submitted to or filed with the court, such requests must be made pursuant to rules 2.550–2.585 of the California Rules of Court.

B. To the extent any request to seal court records falls outside the scope of rules 2.550–2.585 of the California Rules of Court and is not covered by a specific statute, rules 2.550–2.585 must be followed as closely as is practicable.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. & Renum. 1/1/2006; Renum. 1/1/2010)

Rule 2.5.6

Daily Transcripts of Proceedings

A party in a civil action may request a daily transcript of the proceedings. The court may grant the request if such will not disrupt the regular assignment of court reporters. If the request is granted, the requesting party must deposit with the clerk of the court each day a sum equal to the daily cost of the salary and benefits for court reporters in this county under existing law, to compensate the requisite additional reporter. Current information regarding such cost will be available in the office of the executive officer or assistant executive officer of each division.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Renum. 1/1/2010)

Rule 2.5.7

Depositions

No deposition may be noticed for taking before the court, or in any room or quarters under the control of the court, without the express approval in writing of the presiding judge.

Any deposition transcript returned to the court may be opened by the clerk at the request of either party, and the clerk will note thereon at whose request it was opened, and file the deposition transcript on the day it was received by the clerk.

(Adopted 1/1/1998; Renum. 7/1/2001; Renum. 1/1/2006; Renum. 1/1/2010)

Rule 2.5.8

Telephonic Appearances

In accordance with the provisions of California Rules of Court, rule 3.670(l), the court designates CourtCall, LLC, as the provider that must be used for telephonic court appearances. A party that intends to appear telephonically for a hearing listed in the rule must provide notice as specified in California Rules of Court, rule 3.670(g). The party must also arrange the appearance with CourtCall, including following any notice requirements and payment of fees as required by CourtCall. Information on arranging an appearance and payment of fees may be obtained directly from CourtCall at (888) 882-6878.

The court may deny a request to appear telephonically and require the parties to appear in person pursuant to California Rules of Court, rule 3.670(h).

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006; Rev. 1/1/2009; Renum. 1/1/2010)

Rule 2.5.9

Reserved For Future Use

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Del. 1/1/2010)

Rule 2.5.10

Default Attorney Fee Schedule

Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case may be fixed pursuant to the following schedule:

| PRINCIPAL AMOUNT | FEES ALLOWED |
|------------------|--------------|
| \$-0- to \$300 | \$ 100 |
| 301 to 400 | 125 |
| 401 to 500 | 150 |
| 501 to 700 | 175 |
| 701 to 900 | 200 |
| 901 to 1,000 | 250 |
| 1,001 to 1,500 | 300 |
| 1,501 to 2,000 | 375 |
| 2,001 to 2,500 | 450 |
| 2,501 to 3,000 | 525 |
| 3,001 to 3,500 | 600 |
| 3,501 to 4,000 | 675 |
| 4,001 to 4,500 | 750 |

| | |
|------------------|---------------------------|
| 4,501 to 5,000 | 825 |
| 5,001 to 6,000 | 900 |
| 6,001 to 7,000 | 1,000 |
| 7,001 to 8,000 | 1,100 |
| 8,001 to 9,000 | 1,200 |
| 9,001 to 10,000 | 1,300 |
| 10,001 to 12,500 | 1,400 |
| 12,501 to 15,000 | 1,500 |
| 15,001 to 17,500 | 1,600 |
| 17,501 to 20,000 | 1,700 |
| 20,001 to 22,500 | 1,800 |
| 22,501 to 25,000 | 1,900 |
| Over 25,000 | Add 2% of the next 25,000 |
| Over 50,000 | Add 1% of the next 50,000 |
| Over 100,000 | Add .5% |

In any case where an attorney claims he or she is entitled to a fee in excess of any of the above amounts, the attorney may apply to the court therefor and present proof to support the claim. The court will determine the reasonable fee amount according to proof.

In contested matters, the court will determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with Code of Civil Procedure section 1021 et seq., Civil Code sections 1717 and 1717.5, and the California Rules of Court, rule 3.1702.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. & Renum. 1/1/2010)

Rule 2.5.11

Elisors

Where one of the parties will not or cannot execute a document necessary to carry out a court order, the clerk of the court, or his or her authorized representative or designee may be appointed as an elisor to sign the document. An application for appointment of an elisor may be made ex parte. When applying for an appointment of an elisor, the application and proposed order must designate "The clerk of the Court or His/Her Designee" as the elisor and indicate for whom the elisor is being appointed. The application must not set forth a specific court employee. The declaration supporting the application must include specific facts establishing the necessity for the appointment of the elisor. If the elisor is signing documents requiring notarization, the applicant must arrange for a notary public to be present when the elisor signs the document(s).

(Adopted 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Renum. 1/1/2010)

Rule 2.5.12

Sanctions

A. If any counsel, a party represented by counsel, or a party in pro per, fails to comply with any of the requirements of Division II of the San Diego Superior Court Rules, the court, on motion of a party or on its own motion, may strike all or any part of any pleadings of that party; or dismiss the action or proceeding or any part thereof; or enter a judgment by default against that party; or impose other penalties of a lesser nature or otherwise provided by law; and may order that party or his or her counsel to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney fees.

B. If a failure to comply with the rules in Division II is the responsibility of counsel and not of the party, any penalty must be imposed on counsel and must not adversely affect the party's cause of action or defense thereto.

(Adopted 7/1/2002; Rev. 1/1/2005; Renum. 1/1/2006; Renum. 1/1/2010)